

REMARKS/ARGUMENTS

Claims 1-22 are withdrawn and claims 23-35 are under examination. In the Office Action, claims 23-35 were rejected under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,419,684 (Heisler et al.).

By the foregoing amendment, independent claim 23 has been amended to clarify the claimed method. No new matter has been added. Support of the amendments is found in the specification, including at pages 4-5 and 7-8. Reconsideration is respectfully requested.

As presently amended, independent claim 23 recites a method for cutting a strip of tissue of width W from a tissue mass, said method comprising the steps of:

- A) providing a device which comprises;
 - i. an elongate cutting tube that has a distal end, at least one curve and a lumen that opens through an opening in the distal end; and
 - ii. a protruding tip formed at the bottom of the cutting tube distal end and at least first and second lateral cutting edges formed on generally opposite edges of the distal end of the cutting tube, said first and second cutting edges being separated by a distance D that is approximately equal to the width W of the strip of tissue to be cut;
- B) advancing the protruding tip of the cutting tube through tissue such that the first and second cutting edges are positioned adjacent to tissue to be cut;
- C) advancing the distal end such that the cutting edges cut a strip of tissue of approximate width W and the cut strip of tissue remains substantially in tact and enters through the distal end opening and into the lumen of the cutting tube.

Persons of skill in the art will understand that, because Applicant's claimed method removes a strip of tissue which remains substantially intact, that strip of tissue could be subjected

to certain types of testing or analysis (e.g., pathological examination) that would not be possible if the tissue were shaved or chopped.

Heisler et al. describes an end-cutting arthroscopic shaver blade having a tubular inner member rotatable within a tubular outer member. Figure 10 of Heisler et al. is reproduced below as an example.

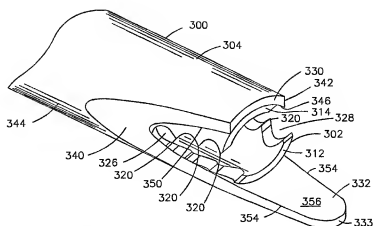


Fig. 10

The Heisler et al. device, as described, is straight. The distal ends of each of the tubular members (302 and 304) are provided with at least two notches, each of which has longitudinally extending sides provided with cutting edges. In one of the embodiments the outer tubular member is provided with an arcuate extension in order to guide tissue toward the notches. Relative rotation of the inner and/or outer tubular members will shave tissue presented at the notch openings. As persons of skill in the art will easily understand, this rotational shaving of tissue does not result in an intact strip of tissue being cut by the lateral edges 340 and entering intact into the lumen of the outer tube member (302).

Heisler et al. does not describe or suggest any device which comprises i. an elongate cutting tube that has a distal end, at least one curve and a lumen that opens through an opening in the distal end; and ii. a protruding tip formed at the bottom of the cutting tube distal end and at least first and second lateral cutting edges formed on generally opposite edges of the distal end of the cutting tube, said first and second cutting edges being separated by a distance D that is

approximately equal to the width W of the strip of tissue to be cut. Moreover, the Heisler et al. device is a shaver which does not cause a substantially in tact strip of tissue to enter into the lumen of the outer tube member. Thus, for at least these reasons, Applicant's amended claims are patentably distinguishable over Heisler et al.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any underpayment, or to credit any overpayment, to Deposit Account No. 50-0878.

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Respectfully submitted,
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